

### **REMARKS**

This is in response to the Office Action mailed July 28, 2003. Claims 1 and 6 have been amended. Claims 4 and 13 have been canceled, without prejudice. Claims 1-3, 5-12, and 14 are currently pending and at issue.

Claim 1 has been amended to include the features set forth in canceled claim 4. Support for this amendment is found in the specification at, for example, page 2, lines 22-27. Claim 6 has been amended to depend from claim 1 instead of canceled claim 4. No new matter has been added. Reconsideration of the application is respectfully requested.

### **Rejections Under 35 U.S.C. § 112, Second Paragraph**

Claims 6 and 13 have been rejected under 35 U.S.C. § 112, second paragraph, as indefinite with respect to the term "hinokitiol" in claim 6 and the phrase "nursing and/or care use" in claim 13.

The rejection is respectfully traversed, and reconsideration is requested.

Claim 13 has been canceled, without prejudice. Therefore, the rejection of claim 13 is considered moot.

With respect to the term "hinokitiol" in claim 6, Applicants respectfully point out that hinokitiol is a form of a specific, known compound that is recognized in the art: CAS No. 499-44-5, formally known as 2-hydroxy-4-isopropyl-2,4,6-cycloheptatrien-1-one. A printout from the Sigma-Aldrich website disclosing the

same is attached herewith as Exhibit A. Therefore, this rejection should be withdrawn.

**Rejections Under 35 U.S.C. § 102(b)**

Claims 1-3 and 7-14 have been rejected under 35 U.S.C. § 102(b) as anticipated by Hammonds et al. (WO 98/03147) ("Hammonds"). Hammonds is cited by the Examiner as disclosing a nonwoven wiper comprising 0.5 to 50 weight percent of a plant extract extracted with a polyhydric alcohol, wherein the plant extract is oat extract having a moisturizing effect. The Examiner further asserts that the limitations as to basis weight, types of fibers, size, and area are disclosed in Hammonds as well.

The rejection is respectfully traversed, and reconsideration is requested.

Claim 1 has been amended to specify that the plant extract in the wet wiper "has an inactivating effect for enzymes in feces." Support for this amendment is found in original claim 4 and in the specification at, for example, page 2, lines 22-27. Hammonds does not teach or suggest a wet wiper having this feature. More specifically, Hammonds provides no disclosure regarding the inactivation of feces enzymes. Therefore, this rejection should be withdrawn.

**Rejections Under 35 U.S.C. § 103(a)**

Claims 3 and 5 have been rejected under 35 U.S.C. § 103(a) as unpatentable over Hammonds in view of Corey et al. (U.S. Patent No. 5,152,996)

("Corey") or Japanese Patent Publication No. JP 2000-226324 ("JP '324"). The Examiner cites both Corey and JP '324 as disclosing a wet wipe containing the plant extracts presently recited in claims 3 and 5, which the Examiner acknowledges are not disclosed in Hammonds. According to the Examiner, it would have been obvious to employ the Corey or JP '324 plant extracts in the Hammonds wipe in order to achieve the presently claimed invention.

The rejection is respectfully traversed, and reconsideration is requested.

Claim 1, and all of its dependent claims, are non-obvious over Hammonds in view of Corey because: (i) neither reference teaches or suggests the use of a plant extract having an "inactivating effect for enzymes in feces;" and (ii) neither reference would have motivated a person of ordinary skill to replace the essential oat extract of Hammonds with an optional ingredient from Corey.

First, Hammonds is limited to fibrous sheet materials that provide a soothing effect (Hammonds: p. 2, lines 20-22), and discloses nothing about feces enzyme inactivation. Likewise, Corey provides only a very limited disclosure regarding botanical extracts, stating simply that they are an "optional ingredient" (Corey: col. 3, lines 24-34), but providing no information regarding an inactivating effect for enzymes in feces. Neither reference contains a teaching as to desirability for selecting extracts having this particular property. Consequently, there is no motivation in either cited reference that would have guided a person of ordinary skill to develop a wet wiper comprising a plant extract having this particular

property because neither reference discloses or teaches such an extract. As the Examiner will appreciate, not all extracts have the claimed properties.

Second, the main feature of Corey is the use of a zinc acetate complex in its wipes. Corey states, "The essence of the present invention provides an aqueous composition comprising a) a zinc acetate complex" (Corey: col. 1, lines 54-56). Botanical extracts are disclosed as an "optional ingredient" that may be included in the aqueous composition used to impregnate the wipes (Corey: col. 3, lines 24-34). None of the Corey examples, however, disclose the use of any botanical extract. Thus, there is no disclosure in Corey or Hammonds that would have motivated a person of ordinary skill in the art to replace an essential feature in Hammonds (oat extract) with an optional ingredient in Corey. The cited references provide no suggestion to make such a significant modification.

Accordingly, claim 1, and all of its dependent claims, are non-obvious over Hammonds in view of Corey.

Claim 1, and all of its dependent claims, are non-obvious over Hammonds in view of JP '324 because: (i) there is no suggestion in Hammonds or JP '324 that the JP '324 liquid agent composition would be a suitable liquid to impregnate into a fibrous sheet; and (ii) there is no disclosure in either reference that would have motivated a person of ordinary skill to replace the essential oat extract of Hammonds with another plant extract.

First, JP '324 discloses a liquid composition, but does not teach or suggest its use as an aqueous solution impregnated into a fibrous sheet. The liquid

composition in JP '324 is specifically disclosed as a cleaning solution, not as a component of a fibrous sheet. JP '324 does not teach or suggest that its liquid composition may function as a liquid impregnated into a fibrous sheet; and it cannot be assumed that all liquid compositions would be equally suitable for impregnation into a fibrous sheet. Moreover, there is no disclosure in JP '324 or Hammonds to reasonably indicate that the JP '324 liquid composition could be successfully impregnated into the Hammonds fibrous sheet in order to achieve the present invention. *See Life Techs., Inc. v. Clontech Labs., Inc.*, 224 F.3d 1320 (Fed. Cir. 2000) (stating that prior art references can only render a claim obvious where the combination of their teachings provides a reasonable expectation of success).

Second, there is no disclosure in JP '324 or Hammonds that would have motivated a person of ordinary skill in the art to replace the essential oat extract of Hammonds with a plant extract from JP '324. The main thrust of Hammonds is the use of oat extract as a particular and essential feature of its fibrous sheet material (Hammonds: p.1, lines 7-9). Specifically, Hammonds states, "Applicants have discovered that oat extracts are particularly desirable for use in fibrous sheet materials intended for personal use." (Hammonds: p. 3, lines 31-34). No other plant extracts are disclosed. There is no disclosure in JP '324 or Hammonds that would have motivated a person of ordinary skill to modify Hammonds by replacing its essential feature with a plant extract from JP '324. Moreover, there is no

disclosure in either reference that suggests such a modification would even prove successful.

Accordingly, claim 1, and all of its dependent claims, are non-obvious over Hammonds in view of JP '324.

Claims 4 and 6 have been rejected under 35 U.S.C. § 103(a) as unpatentable over Hammonds in view of Japanese Patent Publication No. JP 9158042 ("JP '042"). The Examiner cites JP '042 as disclosing the claimed plant extracts in nonwoven wipes and hygiene products. According to the Examiner, it would have been obvious to employ the JP '042 extracts in the Hammonds wipe in order to achieve the present invention.

The rejection is respectfully traversed, and reconsideration is requested.

Claim 4 has been canceled, without prejudice. Therefore, the rejection of claim 4 is considered moot.

Claim 1, and all of its dependent claims, are non-obvious over Hammonds in view of JP '042 because: (i) there is no suggestion in Hammonds or JP '324 that the JP '042 liquid agent would be a suitable liquid to impregnate into a fibrous sheet; and (ii) neither reference teaches or suggests the use of a plant extract having an "inactivating effect for enzymes in feces."

First, JP '042 discloses a liquid composition, but does not teach or suggest its use as an aqueous solution impregnated into a fibrous sheet. The liquid composition in JP '042 is specifically disclosed as an agent used to treat fiber

products after washing with detergent. JP '042 does not teach the use of its liquid composition as a component of a fibrous sheet or, more specifically, that it may be impregnated into a fibrous sheet. It cannot be assumed that all liquid compositions would be equally suitable for impregnation into a fibrous sheet. Moreover, there is no disclosure in JP '042 or Hammonds to reasonably indicate that the JP '042 liquid composition could be successfully impregnated into the Hammonds fibrous sheet in order to achieve the present invention. *See Life Techs., Inc. v. Clontech Labs., Inc.*, 224 F.3d 1320 (Fed. Cir. 2000) (stating that prior art references can only render a claim obvious where the combination of their teachings provides a reasonable expectation of success).

Second, Hammonds is limited to fibrous sheet materials that provide a soothing effect (Hammonds: p. 2, lines 20-22), and discloses nothing about feces enzyme inactivation. Likewise, JP '042 discloses that its liquid composition contains an extract obtained from one of eleven different plants, but fails to provide any information regarding an inactivating effect for enzymes in feces. Consequently, there is no disclosure in either cited reference that would have guided a person of ordinary skill to develop a wet wiper comprising a plant extract having this particular property of feces enzyme inactivation because neither reference indicates that any of the disclosed extracts have such a property.

Accordingly, claim 1, and all of its dependent claims, are non-obvious over Hammonds in view of JP '042.

### Conclusion

In view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining, which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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